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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,706	12/17/2001	Michael G. Harris	07965.0020-00	6249

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,706

Applicant(s)

HARRIS ET AL.

Examiner

Michael C. Miggins

Art Unit

1772

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15, 20-23, 25, 26, 28 and 41-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15, 20-23, 25-26, 28, 41-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1772

DETAILED ACTION

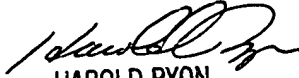
1. In view of the Appeal Brief filed on 3/14/06, PROSECUTION IS HEREBY REOPENED. A new grounds for rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


HAROLD PYON
SUPERVISORY PATENT EXAMINER

REJECTIONS WITHDRAWN

2. All of the 102(b), 103(a) and double patenting rejections set forth in the non-final rejection of 2/22/05, pages 5-12, paragraphs 7-15.

REJECTIONS REPEATED

3. There are no rejections repeated.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6-7, 12-15, 20-23, 25-26, 28 and 41-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. (US Patent No. 5534317) in view of EP 0707040 (English translation provided by applicant).

Herman discloses a melt-blended polyethylene composition comprising a first high density polyethylene resin having a melt flow index of about 0.01 to about 0.2 and a density of about 0.941 to about 0.958 g/cubic centimeter (column 2, lines 35-59 and Table II), a second high density polyethylene resin having a melt flow index of about 0.1 to about 1.5 and a density of about 0.957 to about 0.970 g/cubic centimeter (column 2, lines 13-34 and Table II) and a third polyethylene which is LLDPE (column 1, lines 55-67, column 2, line 65 through column 3, line 10 and Table II) and wherein the polyethylene resin composition has a stress crack resistance of at least 24 hours (Table II), wherein the first and second resins are virgin and recycled polyethylene (column 2, lines 13-59), wherein the LLDPE has a melt flow index of about 0.1 to about 1.5, wherein the LLDPE has a density of about 0.920 to about .940 (column 3, lines 1-10), wherein said first and second high density polyethylene resins are present in an amount of about 50 to about 95 percent by weight (Table II), wherein the first and second high

Art Unit: 1772

density polyethylene resins are each independently selected from the group consisting of a high molecular weight density polyethylene resin, a homopolymer high density polyethylene resin, and mixtures thereof (column 2, lines 13-59) (applies to instant claims 1-4, 7, 15, 20-23, 25-26, 28 and 41-50).

Herman does not disclose the polyethylene composition has a density of about 0.945 to about 0.960 g/cubic centimeters and a melt flow index of about 0.1 to about 0.4, or 0.15 to about 0.35, or 0.2 to 0.3, or wherein the density of the polyethylene composition is 0.945 to 0.955 and the melt flow index is about 0.1 to 0.4.

EP 0707040 discloses a polyethylene composition has a density of about 0.945 to about 0.960 g/cubic centimeters and a melt flow index of about 0.1 to about 0.4, or 0.15 to about 0.35, or 0.2 to 0.3, or wherein the density of the polyethylene composition is 0.945 to 0.955 and the melt flow index is about 0.1 to 0.4 (Table 2, Examples 3-6), wherein the first and second high density polyethylene resins are each independently selected from the group consisting of a unimodal resin, a bimodal resin, a multimodal resin, and mixtures thereof (all of page 3), in polyethylene composition comprising high density and low density polyethylene for the purpose of providing good flow behavior, improved resistance toward tension cracks combined with good rigidity (page 4, third paragraph) (applies to instant claims 1, 6, 12-14, 20, 23, 26, 41 and 44).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided the polyethylene composition has a density of about 0.945 to about 0.960 g/cubic centimeters and a melt flow index of about 0.1 to about 0.4, or 0.15 to about 0.35, or 0.2 to 0.3, or wherein the density of the

Art Unit: 1772

polyethylene composition is 0.945 to 0.955 and the melt flow index is about 0.1 to 0.4 in the polyethylene composition of Herman in order to provide good flow behavior, improved resistance toward tension cracks combined with good rigidity as taught or suggested by EP 0707040.

6. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. (US Patent No. 5534317) in view of EP 0707040 (English translation provided by applicant), as applied to claims 1-4, 6-7, 12-15, 20-23, 25-26, 28 and 41-50 above, and further in view of Calabro et al. (US 5102955).

Herman fails to disclose a melt flow ratio of first and second resins with is from about 20 to about 200.

Calabro discloses a melt flow ratio of first and second resins with is from about 20 to about 200 (column 2, lines 25-33) in a blend of high and low density polyethylene (column 4, lines 12-50) for the purpose of providing excellent strength (column 2, lines 25-33).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a melt flow ratio of first and second resins with is from about 20 to about 200 in the polyethylene composition of Herman in order to provide excellent strength as taught or suggested by Calabro.

ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments of 3/14/06 have been carefully considered but are moot in view of the new grounds for rejection.

Conclusion

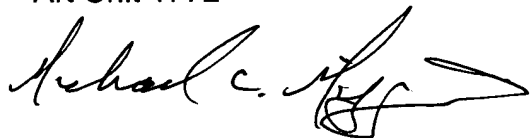
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCM

Michael C. Miggins
Primary Examiner
Art Unit 1772

A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a stylized flourish at the end.